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First report on State responsibility

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Addendum

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I. The distinction between "crimes" and "delictual" responsibility (continued)

C. Existing international law on the criminal responsibility of States

61. The traditional position of international law on the question of international crimes of States was expressed by the Nürnberg Tribunal, which stated that:

> "Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced."[53]

The treaties recognizing or establishing international crimes took the same position. Neither Germany nor Japan were treated as "criminal States" by the instruments creating the post-war war crimes tribunals, although the London Charter of 1945 specifically provided for the condemnation of a "group or organization" as "criminal".[54] The first of the post-war criminal law conventions, the Genocide Convention, specifically provided in article IX for State responsibility with respect to the crime of genocide, a crime characteristically associated with acts of government.[55] Yet it was made clear at the time that article IX did not envisage any form of State criminal responsibility.[56]

62. At the time article 19 was proposed and adopted, there had been no judicial decisions affirming that States could be criminally responsible. The commentary to draft article 19 notes the absence of international judicial or arbitral authority for a distinction between crimes and delicts.[57] It cites as indirect support for such a distinction certain cases on reprisals or countermeasures,[58] and places particular emphasis on the "essential distinction" drawn by the Court in the *Barcelona Traction* case.[59] According to the commentary this passage provides "an important argument in support of the theory that there are two separate regimes of international responsibility depending on the subject matter of the international obligation breached, and consequently that, on the basis of that distinction, there are two different types of internationally wrongful acts of the State".[60]

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[53] *Trial of the Major War Criminals before the International Military Tribunal, Nuremberg*, vol. 22, p. 466 (1948).

[54] Charter of the International Military Tribunal, London, 8 August 1945, United Nations *Treaty Series*, vol. 82, p. 279, articles 9 and 10, at p. 290. Such a declaration could only be made after a trial of a member of the organization "in connection with any act of which the individual may be convicted", and there were certain procedural safeguards for other members. The Tokyo Charter contained no such provisions. See also the *Touvier* case, International Law Reports, vol. 100 (1992), p. 337, *Jury Classeur Périodique*, 1993 I, 21977.

[55] Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, United Nations *Treaty Series*, vol. 78, p. 277.

[56] Sir Gerald Fitzmaurice as co-sponsor of article IX stated that "the responsibility envisaged by the joint Belgian and United Kingdom amendment was the international responsibility of States following a violation of the convention. That was civil responsibility, not criminal responsibility": *Official Records of the General Assembly, Sixth Committee, Summary Records*, 21 September-10 December 1948, p. 440.

[57] *Yearbook ... 1976*, vol. II (Part Two), commentary to article 19, para. (8).

[58] Specifically the *Naulilaa* case (1928), *United Nations Reports of International Arbitral Awards*, vol. 2, p. 1025; and the *Cysne* case, ibid., p. 1052: see commentary to article 19, para. (9) in *supra*, note 57. Neither of these cases involved "crimes" as defined in article 19.

[59] *Supra*, note 57, commentary to article 19, para. (10).

[60] Ibid.

63. Judicial decisions since 1976 certainly support the idea that international law contains different kinds of norms, and is not limited to the "classical" idea of bilateral norms. On the other hand there is no support in those decisions for a distinct category of international crimes of States.

(a) In *Velásquez Rodríguez v. Honduras (Compensation)*, the Inter-American Court of Human Rights was asked to award punitive damages in respect of the "disappearance" of a citizen, one of a large number of persons who had been abducted, possibly tortured and almost certainly executed without trial. The breach was an egregious one but the Court nonetheless rejected the claim to punitive damages. Relying in part on the reference to "fair compensation" in article 63, paragraph 1, of the American Convention on Human Rights, the Court asserted that:

> "Although some domestic courts, particularly the Anglo-American, award damages in amounts meant to deter or to serve as an example, this principle is not applicable in international law at this time."[61]

(b) In *Re Letelier and Moffit*, a Chile-United States International Commission was charged to determine the amount of compensation payable to the United States arising from the assassination by Chilean agents in Washington, D.C. of a former Chilean Minister, Orlando Letelier, and another person.[62] The payment was to be made *ex gratia* but was to be assessed "in conformity with the applicable principles of international law, as though liability were established". The Commission assessed damages in accordance with ordinary principles, taking into account moral damage but not punitive damage: in fact no claim for punitive damages was made.[63]

(c) In the *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia) (Preliminary Objections)*, the International Court upheld its jurisdiction to hear a claim of State responsibility for genocide under article IX of the Genocide Convention.[64] The Applicant's primary claim concerned the direct involvement of the respondent State itself, through its high officials, in acts of genocide, although other bases of claim were also alleged. In response to an argument that State responsibility under article IX is limited to responsibility for failure to prevent or punish genocide (as distinct from cases of direct attribution), the Court said:

> "the reference in article IX to the responsibility of a State for genocide or for any of the other acts enumerated in article III does not exclude any form of State responsibility. Nor is the responsibility of a State for acts of its organs excluded by article IV of the Convention, which contemplates the commission of an act of genocide by 'rulers' or 'public officials'."[65]

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[61] IACHR Series C, No. 7 (1989), p. 52; *International Law Reports*, vol. 95, p. 315-316.

[62] *International Law Reports*, vol. 88 (1992), p. 727. The United States courts had earlier awarded US$ 5 million, including $2 million in punitive damages, on account of the incident, in a default judgement which had not been satisfied: *Letelier v Republic of Chile*, 502 F Supp. 259 (1980); *International Law Reports*, vol. 63, p. 378. The Commission awarded approximately $2.6 million in full and final settlement.

[63] In a separate concurring opinion, Commissioner Orrego Vicuña expressed the view that "international law has not accepted the concept of punitive damages", and that any award which was punitive in its effect because the amount was "excessive or disproportionate" would be "equally unwarranted and contrary to international law", in *International Law Reports*, vol. 88, p. 741.

[64] *I. C. J. Reports 1996*, p. 595.

[65] Ibid., p. 616.

The Court's reference to "any form of State responsibility" is not to be read as referring to State criminal responsibility, but rather to the direct attribution of genocide to a State as such.[66] It may be noted that neither party in that case argued that the responsibility in question would be criminal in character.[67]

(d) In *Prosecutor v Blaskic (Objection to the Issue of* Subpoena Duces Tecum), the Appeals Chamber of the International Tribunal for the Former Yugoslavia had to consider, *inter alia*, whether the Tribunal could subpoena evidence directly from States pursuant to its Statute and Rules. The evidence in question related to the alleged commission by State agents, including the accused, of crimes within the jurisdiction of the Tribunal. In other words, it related to alleged crimes imputable to the State. The Appeals Chamber held that no power to issue subpoenas against States existed. It said, *inter alia*:

> "the International Tribunal does not possess any power to take enforcement measures against States. Had the drafters of the Statute intended to vest the International Tribunal with such a power, they would have expressly provided for it. In the case of an international judicial body, this is not a power that can be regarded as inherent in its functions. Under current international law States can only be the subject of countermeasures taken by other States or of sanctions visited upon them by the organized international community, i.e., the United Nations or other intergovernmental organizations. Under present international law it is clear that States, by definition, cannot be the subject of criminal sanctions akin to those provided for in national criminal systems."[68]

The qualification in the last sentence ("akin to those provided for in national legal systems") must be noted. Nonetheless the Court held that the Tribunal is not authorized to issue orders termed "subpoenas" to States, although it is clearly authorized by article 29, paragraph 2, of its Statute to issue orders with which States are required to comply.[69]

Other cases which might be cited to similar effect include the various phases of the *Rainbow Warrior* affair.[70]

64. The position in State practice as at 1976 was more complex. The language of "crimes" was used from time to time with respect to the conduct of States in such fields as aggression, genocide, apartheid and the maintenance of colonial domination, and there was concerted condemnation of at least some cases of the unlawful use of force, of systematic

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[66] See, by contrast, the joint declaration of Judges Shi and Vereshchetin: ibid., pp. 631-632.

[67] In its Order of 17 December 1997 on the admissibility of Yugoslavia's counter-claims in that case, the Court reiterated the *erga omnes* character of the prohibition against genocide but held that "the argument drawn from the absence of reciprocity in the scheme of the Convention is not determinative as regards the assessment of whether there is a legal connection between the principal claim and the counter-claim, insofar as the two Parties pursue, with their respective claims, the same legal aim, namely the establishment of legal responsibility for violations of the Genocide Convention" (para. 35). In a separate opinion, Judge Lauterpacht noted that:

> "The closer one approaches the problems posed by the operation of the judicial settlement procedure contemplated by article IX of the Genocide Convention, the more one is obliged to recognize that these problems are of an entirely different kind from those normally confronting an international tribunal of essentially civil, as opposed to criminal, jurisdiction. The difficulties are systemic and their solution cannot be rapidly achieved"

(ibid., para. 23)

[68] Judgment of 29 October 1997, para. 25; *International Law Reports*, vol. 110, pp. 697-698.

[69] It was not argued in that case that the Tribunal itself had the power to enforce "subpoenas" issued to States: this would have been a matter for the Security Council itself.

[70] For the ruling of the Secretary-General see *United Nations Reports of International Arbitral Awards*, vol. 19, p. 199. For the decision of the Arbitral Tribunal see ibid., vol. 20, p. 217.

discrimination on grounds of race or of the maintenance by force of colonial domination.[71] The Commission concluded from a review of action taken within the framework of the United Nations that:

> "in the general opinion, some of these acts genuinely constitute 'international crimes', *that is to say*, international wrongs which are more serious than others and which, as such, should entail more severe legal consequences. This does not, of course, mean that all these crimes are equal – in other words, that they attain the same degree of seriousness and necessarily entail all the more severe consequences incurred, for example, by the supreme international crime, namely, a war of aggression."[72]

65. State practice in the period from 1976 to 1995 was reviewed by Professor Arangio-Ruiz in his seventh report;[73] his review need not be repeated here. A number of features of the practice of this period may, however, be recalled. They include:

- The "rebirth" of activity of the Security Council under Chapter VII of the Charter of the United Nations, with vigorous action taken, for example, against Iraq in respect of Kuwait, and against the Libyan Arab Jamahiriya in respect of its alleged involvement in a terrorist bombing;[74]
- The progressive development of systems of individual accountability for certain crimes under international law, through the ad hoc Tribunals for the former Yugoslavia and Rwanda and, prospectively, the International Criminal Court;[75]
- The further development of substantive international criminal law across a range of topics, including, most recently, the protection of United Nations peacekeeping forces and action against terrorist bombings;[76]
- Continued development of legal constraints against the use of chemical, biological and bacteriological weapons, and against the further proliferation of nuclear weapons.

On the other hand, this period has been characterized by a degree of inconsistency. No international action was taken, for example, in response to the Cambodian genocide,[77] or to the aggression which initiated the 1980-1988 Iraq-Iran War.[78] Perhaps more relevantly, the measures taken by the Security Council since 1990 have not involved "criminalizing" States, even in circumstances of gross violation of basic norms. For example, the two ad

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[71] See the review of practice in the commentary to article 19, paras. (12)-(32), in *supra*, note 57.

[72] Commentary to article 19, para. (33) (emphasis added), in ibid. For the Commission's review of the literature see ibid., paras. (35)-(49).

[73] A/CN.4/469, p. 28-32.

[74] As to the latter see *Case concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Request for the Indication of Provisional Measures), I. C. J. Reports 1992*, p. 114; ibid., *Preliminary Objections*, Judgment of 27 February 1998.

[75] The draft statute for an international criminal court limited the jurisdiction of the Court to crimes of individual persons. See *Yearbook ... 1994*, vol. II (Part Two), p. 18-73. No change to this aspect of the draft statute has been proposed in subsequent discussions.

[76] Convention on the Safety of United Nations and Associated Personnel, General Assembly resolution 49/59 of 9 December 1994; International Convention for the Suppression of Terrorist Bombings, General Assembly resolution 52/164 of 15 December 1997.

[77] See General Assembly resolution 3238 (XXIX) of 29 November 1974; General Assembly resolution 44/22 of 16 November 1989, calling, *inter alia*, for "non-return to the universally condemned policies and practices of a recent past".

[78] See "Further report of the Secretary-General on the implementation of Security Council resolution 598 (1987)" (S/23273) of 9 December 1991, para. 7, referring to "Iraq's aggression against Iran – which was followed by Iraq's continuous occupation of Iranian territory during the conflict – in violation of the prohibition of the use of force, which is regarded as one of the rules of *jus cogens*".

hoc tribunals established by the Security Council have jurisdiction only over individual persons in respect of defined crimes against international law, and not over the States which were, prima facie, implicated in those crimes.[79] Iraq has to all intents and purposes been treated as a "criminal State" in the period since its invasion of Kuwait, but the Security Council resolutions relating to Iraq have not used the terminology of article 19. Chapter VII resolutions passed since 1990 have consistently used the formula "threat to or breach of the peace", and not "act of aggression". The notion of "threat to or breach of the peace" has been gradually extended to cover situations of essentially humanitarian (as distinct from inter-State) concern. But those resolutions have not relied on the concept of an "international crime" in the sense of article 19, despite numerous references to the prosecution of crimes under international and national law.

D. Relations between the international criminal responsibility of States and certain cognate concepts

66. At the same time, certain basic concepts of international law laid down in the period 1945-1970 have been consolidated.

1. Individual criminal responsibility under international law

67. The Nürnberg principles, involving the accountability of individuals, whatever their official position, for crimes against international law, have been reinforced by the development of additional conventional standards and, perhaps more importantly, by new institutions. The two ad hoc tribunals were established under Chapter VII of the Charter of the United Nations. Their creation and operation have added impetus to the movement for a permanent international criminal court. The position was summarized by the Secretary-General in 1996 in the following words:

> "the actions of the Security Council establishing international tribunals on war crimes committed in the former Yugoslavia and in Rwanda, are important steps towards the effective rule of law in international affairs. The next step must be the further expansion of international jurisdiction. The General Assembly in 1994 created an ad hoc committee to consider the establishment of a permanent international criminal court, based upon a report and draft statute prepared by the International Law Commission. The Assembly has since established a preparatory committee to prepare a draft convention for such a court that could be considered at an international conference of plenipotentiaries. This momentum must not be lost. The establishment of an international criminal court would be a monumental advance, affording, at last, genuine international jurisdictional protection to some of the world's major legal achievements. The benefits would be manifold, enforcing fundamental human rights and, through the prospect of enforcing individual criminal responsibility for grave international crimes, deterring their commission."[80]

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[79] Similarly the draft Code of Crimes against the Peace and Security of Mankind as completed by the Commission in 1996 provides exclusively for individual responsibility: see article 2 and commentary, in *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 10* (A/51/10), pp. 18-28. This is "without prejudice to any question of the responsibility of States under international law": article 4, ibid., p. 30.

[80] "Support by the United Nations system of the efforts of Governments to promote and consolidate new or restored democracies. Supplement to reports on democratization", A/51/761, annex, para. 114.

In addition, trials and inquiries have been instituted in a number of States in the past decade in respect of crimes under international law.[81]

2. Peremptory norms of international law (*jus cogens*)

68. The Vienna Convention on the Law of Treaties (which came into force in 1980) has been widely accepted as an influential statement of the law of treaties, including the grounds for the validity and termination of treaties.[82] Although one or two States have continued to resist the notion of *jus cogens* as expressed in articles 53 and 64 of the Convention,[83] predictions that the notion would be a destabilizing factor have not been borne out.[84] There has been no case of invocation of article 66 (a) of the Convention, and the International Court has not had to confront the notion of *jus cogens* directly. It has however taken note of the concept.[85] Indeed, in its *Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons*, the Court stated that "because a great many rules of international humanitarian law applicable in armed conflict are so fundamental to the respect of the human person and 'elementary considerations of humanity' ... they constitute intransgressible principles of international customary law".[86]

3. Obligations *erga omnes*

69. Most significant for present purposes is the notion of obligations *erga omnes*, introduced and endorsed by the Court in the *Barcelona Traction Case (Second Phase)*, and heavily relied on by the Commission in its commentary to article 19. The Court there referred to "an essential distinction between the obligations of a State towards the international community as a whole, and those arising vis-à-vis another State in the field of diplomatic protection".[87] The Court instanced "the outlawing of acts of aggression, and of genocide" as well as "the basic rights of the human person, including protection from slavery and racial discrimination" as examples of obligations *erga omnes*. It is true that, in a passage less often cited, it went on to say that "on the universal level, the instruments which embody human rights do not confer on States the capacity to protect the infringements

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[81] See, e.g., *Polyukovich v. Commonwealth of Australia*, *International Law Reports*, vol. 91 (1991), p. 1 (Australia, High Court); *R v. Finta*, *International Law Reports*, vol. 82 (1989), p. 424 (Canada, High Court), on appeal 98 *International Law Reports*, vol. 98, p. 520 (Ontario CA), on further appeal, *International Law Reports*, vol. 194, p. 284 (Supreme Court); *Barbie*, *International Law Reports*, vol. 78 (1984), p. 125, *International Law Reports*, vol. 78 (1985), p. 136, *International Law Reports*, vol. 100 (1988), p. 330 (France, Cour de Cassation); *Touvier*, ibid., p. 337 (France, Court of Appeal of Paris, Cour de Cassation). See also Border Guards Prosecution Case, ibid., p. 364 (Germany: Federal Supreme Court).

[82] See the judgment of 25 September 1997 in the *Case concerning the Gabcikovo-Nagymaros Project*, *I. C. J. Reports*, 1997, paras. 89-114.

[83] A/CN.4/488, comments by France under article 19, para. 2.

[84] The International Court has placed great stress on the stability of treaty relations: see, e.g., *Case concerning the Territorial Dispute (Libyan Arab Jamahiriya v. Chad)*, *I. C. J. Reports 1994*, p. 6; *Case concerning the Gabcikovo-Nagymaros Project*, ibid., 1997, para. 114.

[85] See, e.g., *Case concerning Military and Paramilitary Activities in and against Nicaragua*, *I. C. J. Reports 1986*, pp. 100-101.

[86] *I. C. J. Reports 1996*, p. 257. Despite its reference to "intransgressible principles", the Court held that it had no need to pronounce on the issue of *jus cogens*. The question before it related not to the "legal character of the norm ... the character of the humanitarian law which would apply to the use of nuclear weapons", but to "the applicability of the principles and rules of humanitarian law in cases of recourse to nuclear weapons and the consequences of that applicability for the legality of recourse to these weapons", ibid., p. 258.

[87] *I. C. J. Reports 1970*, p. 32.

of such rights irrespective of their nationality".[88] This may imply that the scope of obligations *erga omnes* is not co-extensive with the whole field of human rights, or it may simply be an observation about the actual language of the general human rights treaties.

70. On a number of subsequent occasions the Court has taken the opportunity to affirm the notion of obligations *erga omnes*, although it has been cautious in applying it. Thus in the *Case concerning East Timor*, the Court said:

> "Portugal's assertion that the right of peoples to self-determination ... has an *erga omnes* character ... is irreproachable. The principle of self-determination ... is one of the essential principles of contemporary international law. However, the Court considers that the *erga omnes* character of a norm and the rule of consent to jurisdiction are two different things. Whatever the nature of the obligations invoked, the Court could not rule on the lawfulness of the conduct of a State when its judgment would imply an evaluation of the lawfulness of the conduct of another State which is not a party to the case. Where this is so, the Court cannot act, even if the right in question is a right *erga omnes*."[89]

In the *Genocide Convention case (Preliminary Objections)* the Court, after referring to a passage from its judgment in *Reservations to the Genocide Convention,* said that "the rights and obligations enshrined in the Convention are rights and obligations *erga omnes*".[90] This finding contributed to its conclusion that its temporal jurisdiction over the claim was not limited to the time after which the parties became bound *inter se* by the Convention.[91]

71. For present purposes it is not necessary to analyse these decisions, or to discuss such questions as the relation between "obligations" and "rights" of an *erga omnes* character.[92] What can be said is that the developments outlined above confirm the view that within the field of general international law there is some hierarchy of norms, and that the importance of at least a few basic substantive norms is recognized as involving a difference not merely of degree but of kind. Such a difference would be expected to have its consequences in the field of State responsibility. On the other hand it does not follow from this conclusion that the difference in the character of certain norms would produce two distinct regimes of responsibility, still less that these should be expressed in terms of a distinction between "international crimes" and "international delicts".

72. It is relevant to note here the preliminary, even exploratory, way in which the Commission in 1976 adopted that distinction and that terminology.

73. As to the distinction between the categories of more and less serious wrongful acts, in the first place, the Commission was rigorous in "resist[ing] the temptation to give any indication ... as to what it thinks should be the regime of responsibility applicable to the most serious internationally wrongful acts".[93] These issues were left completely open. Secondly, it seemed to deny that all "international crimes" or all "international delicts" would themselves be subject to a uniform regime. In short, not merely was there not a single

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[88] Ibid., p. 47.

[89] *I.C.J. Reports 1995*, p. 102.

[90] *I.C.J. Reports 1996*, p. 616.

[91] Ibid., p. 617.

[92] International law has always recognized the idea of "rights *erga omnes*", although the phrase was rarely used. For example, coastal States have always had a right *erga omnes* to a certain width of territorial sea; all States have a right *erga omnes* to sail ships under their flag on the high seas. Yet these rights give rise to purely bilateral relationships of responsibility in the event that they are infringed by another State. The notion of obligation *erga omnes* has distinct and broader implications.

[93] Commentary to art. 19, para. (53), in *supra* note 57.

regime for all internationally wrongful acts; it was doubtful whether there were two such regimes: "international wrongs assume a multitude of forms and the consequences they should entail in terms of international responsibility are certainly not reducible to one or two uniform provisions."[94] No doubt there is always the possibility that a particular rule will prescribe its own special consequences in the event of breach, or will be subject to its own special regime: this is true, in particular, of the paradigm international crime, the crime of aggression.[95] On the other hand, if the category of international crimes were to fragment in this way (bearing in mind that there are relatively few such crimes), one might ask: (a) what was left of the category itself, (b) how it could be resolved in advance that the category existed, without reference to the consequences attaching to particular crimes, and (c) how that investigation could be concluded without in effect codifying the relevant primary rules. Thirdly, the Commission denied that the way to proceed in developing the regime of responsibility for crimes was to establish "a single basic regime of international responsibility ... applicable to all internationally wrongful acts ... and ... to add extra consequences to it for wrongful acts constituting international crimes ..."[96] This "least common denominator" approach to international crimes – it might be called the "delicts plus" approach – was firmly rejected.[97] But it was essentially the approach later adopted by the Commission in determining the consequences of international crimes.

74. As to the terminology of "crimes" and "delicts", the Commission was strongly influenced by the use of the term "crime" in relation to the crime of aggression.[98] It is not clear what alternatives were considered. The Commentary says only that:

> "in adopting the designation 'international crime', the Commission intends only to refer to 'crimes' of the State, to acts attributable to the State as such. Once again it wishes to sound a warning against any confusion between the expression 'international crime' as used in this article and similar expressions, such as 'crime under international law', 'war crime', 'crime against peace', 'crime against humanity', etc., which are used in a number of conventions and international instruments to designate certain heinous individual crimes ..."[99]

This raises, but does not answer, the question why a term was adopted which had immediately to be distinguished from ordinary uses of that term in international law. It should be noted that since 1976 the term "international crime" has gained even wider currency as a reference to crimes committed by individuals which are of international

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[94] Ibid.

[95] Under articles 12, para. 1, 24, para. 1 and 39 of the Charter, the Security Council has a certain priority with respect to the determination, *inter alia*, of an act of aggression and its consequences. See the Commission's commentaries to arts. 20 (b) and 23 (c) of the draft statute for an international criminal court *Yearbook ... 1994*, vol. II (Part Two), pp. 38-39 and 44-45; and art. 16 of the draft Code of Crimes against the Peace and Security of Mankind, *Official Records of General Assembly, Forty-eighth Session, Supplement No. 10*, (A/51/10), p. 83-85.

[96] Commentary to art. 19, para. 54, *supra* note 57.

[97] Ibid.

[98] For example, in the Definition of Aggression, art. 5, para. 2; General Assembly resolution 3314 (XIX) of 14 December 1974.

[99] Commentary to art. 19, para. 59, *supra* note 57.

concern, including, but not limited to, crimes against international law.[100] Thus the risk of terminological confusion has been compounded.

75. Now that a complete set of draft articles exists, it is for the Commission to decide whether the issues left open in 1976 have been, or can be, satisfactorily resolved.

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[100] A search of the United Nations documentary database (1994-1998) reveals 174 references to the term "international crime", usually in phrases such as terrorism, international crime and illicit arms transfers, as well as illicit drug production, consumption and trafficking, which jeopardize the friendly relations among States": see General Assembly resolution 52/43 entitled: "Strengthening of security and cooperation in the Mediterranean region", of 17 December 1997, para. 8.